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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,903	05/25/2007	Murray Edward Bruce Leighton	769-386	4968
51468 7590 12/27/2007 DAY PITNEY LLP ACCOUNT: ILLINOIS TOOL WORKS INC. 7 TIMES SQUARE NEW YORK, NY 10036-7311			EXAMINER SIPOS, JOHN	
			ART UNIT 3721	PAPER NUMBER
			MAIL DATE 12/27/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/586,903

**Applicant(s)**LEIGHTON, MURRAY EDWARD  
BRUCE**Examiner**

John Sipos

**Art Unit**

3721

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 7/21/06&1/22/07.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

### ***REJECTIONS OF CLAIMS BASED ON FORMAL MATTERS***

The following is a quotation of the second paragraph of 35 U.S.C. ' 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 9-13** are rejected under **35 U.S.C. ' 112, second paragraph**, as being **indefinite** for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The terms "sealing means" and "second location" in lines 4 and 5 of claim 9, "further zipper" and "first zipper" in lines 1 and 2 of claim 11 and "further zipper" in line 1 of claim 12 lack antecedent basis.

Claim 12 is indefinite in that it recites an operation wherein the "further" zipper is supplied to the applicator while the applicator is returning to its initial, first position while the claim on which claim 12 depends, i.e. claim 11, sets forth the supplying of the zipper before the applicator reaches the second position and therefore before its return movement. Claim 12 cannot depend on claim 11 since it recites an operation that cannot take place if the method of claim 11 is being performed.

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### ***REJECTIONS OF CLAIMS BASED ON PRIOR ART***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. ' 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

**Claims 1,5-9 and 13** are rejected under **35 U.S.C. ' 102(b)** as being anticipated by the patent to Heijnen (6,574,939). The patent of Heijnen shows a method and apparatus for applying zipper strips to a packaging film comprising continuously moving the film by rollers 26-28, applying the zippers to the film by applicator 44 that moves with the film and then moves in a direction opposite the direction of the film movement and heat sealing the zippers to the film with a heat sealer 45 that moves with the film and then moves in a direction opposite the direction of the film movement while moving perpendicularly to the film movement direction.

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The following is a quotation of 35 U.S.C. ' 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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**Claims 2-4 and 10** are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Heijnen (6,574,939). The operation of Heijnen shows the supplying of the zipper to the applicator with supply mechanism 31-39 and cutter 40; however these mechanisms are stationary. It would have been obvious to one skilled in the art to reciprocate the supply mechanism and the cutter of Heijnen to increase the speed of the machine and thereby the efficiency of the operation. Note that Heijnen states that its improvement of the prior art is that a higher output can be achieved by a zipper applying/sealing apparatus that moves with the film

(column 1, lines 30-43) rather than apply/seal the zipper while the applying/sealing apparatus and film are stationary as in the prior art (see column 1, lines 21-26). This same reasoning would also make the modification of making the supply mechanism move with the applying/sealing apparatus and film an obvious modification for one skilled in the art.

**Claims 11 and 12** are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Heijnen (6,574,939), as applied to the claims above, and further in view of the publication to Leighton (WO 03/097341). The patent to Heijnen does not show the supplying of the film while the applicator arriving at the second location.

The Leighton publication shows a a method and apparatus for applying zipper strips to a packaging film comprising continuously moving the film by rollers, applying the zippers to the film by applicator 22 that moves with the film and then moves in a direction opposite the direction of the film movement and heat sealing the zippers to the film with a heat sealer 24 that moves with the film and then moves in a direction opposite the direction of the film movement while moving perpendicularly to the film movement direction. The zipper is supplied to the applicator prior to the applicator reaching its final second position where it turns around to return to its original position, i.e. zipper is supplied at station 3 in the Figure. It would have been obvious to one skilled in the art to supply the zipper to the applicator of Heijnen prior to its arrival at the second, return position as shown by Leighton.

Regarding claim 12, it would have been also obvious to one skilled in the art to supply the zipper to the applicator of Heijnen after its arrival at the second, return position.

Both of these modifications of Heijnen would have been obvious because they are merely the choosing from a finite number of identified solutions with a reasonable expectation of

success and which would have yielded predictable results to one of ordinary skill in the art at the time of the invention and this technique for improving a particular class of devices was part of the ordinary capabilities of a person skill in the art.

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***ADDITIONAL REFERENCES CITED***

The following prior art is made of record but has not been relied upon in the rejection of claims. However, the prior art is considered pertinent to applicant's disclosure.

The cited art shows the application and sealing of zipper strips transversally to packaging films.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **571-272-4468**. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at **571-272-4467**.

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The **FAX** number for U.S. Patent and Trademark Office is **(571) 273-8300**.

/John Sipos/  
Primary Examiner  
Art Unit 3721